

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Mary S. Franklin, a.k.a. Mary Susie
Mitchell,
Post Office Box 1535
Taylors, South Carolina 29687.

File Number 2004-123354

**Default Order Revoking ALL
LICENSING PRIVILEGES**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (2003), by the State of South Carolina Department of Insurance upon Mary S. Franklin, by both certified mail, return receipt requested, and by regular mail on November 29, 2004.

That letter informed Ms. Franklin of her right to request a public hearing upon the allegations of impropriety contained within the letter against her. The letter further warned that her failure to make a timely, written request would result in my summary revocation of her license to do business as a resident insurance producer within the State of South Carolina. Despite that warning, Mary Franklin has failed to respond to the Department's letter. She has failed to provide the Department with a current address in violation of S.C. Code Ann. § 38-43-107 (Supp 2003), and the United States Postal Service returned as unclaimed the letters sent by the Department. On January 4, 2005, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance producer within the State of South Carolina, Mary Franklin "misappropriated monies from a customer's Annuity funds, for an amount close to two hundred thousand dollars."

Section 38-43-130 of the South Carolina Code provides the Director or his designee "may revoke or suspend an producer's license after ten day's notice...when it appears that an producer...has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State." This Code Section goes on within Subsection (4) to describe "deceived or dealt unjustly with the citizens of this State" specifically to include, "improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business."

In accordance with my findings of fact, and considering Mary Franklin's failure to avail herself of her opportunity to be heard, I now conclude, as a matter of law, that Ms. Franklin violated S.C. Code Ann. § 38-43-130 (Supp. 2003) and that her resident insurance producer's license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2003). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(3) (2003), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that the license of Mary S. Franklin to do business as a resident insurance producer within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to her.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Ms. Franklin is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance producer within the State of South Carolina.

This order becomes effective as of the date of my signature below.


Gwendolyn Fuller McGriff
Deputy Director

04 January 2005, at
Columbia, South Carolina

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In the matter of:

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Taylors, S.C. 29687

SCDOI File Number 2004-123354

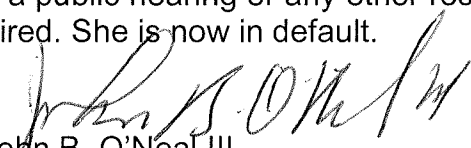
Affidavit of Default

Personally appeared before me John B. O'Neal III, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was the attorney representing the State of South Carolina Department of Insurance (the Department) in this administrative action. He further stated the following:

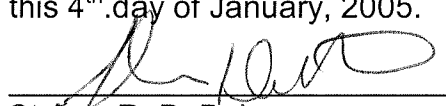
The Department served notice on Mary S. Franklin, a.k.a. Mary Susie Mitchell, at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke her license to act as a resident insurance agent within the State of South Carolina in thirty days. The Department served the Notice, pursuant to § 38-3-170 of the South Carolina Code, by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." The Notice further informed Ms. Franklin of her opportunity, within thirty days, to request in writing a public hearing.

The Department mailed the Notice by certified mail, return receipt requested, and by regular mail, on or about November 29, 2004. The United States Postal Service notified Mary Franklin of the certified letter on November 30, December 8 & 13, of 2004 and thereafter. See "Exhibit A" attached. The United States Post Office then returned the certified letter to the Department, having marked it as "Unclaimed." The Notice sent via regular mail was not returned.

Mary S. Franklin has made no request for a public hearing or any other response to the Notice. The time in which to do so has expired. She is now in default.


John B. O'Neal III
Associate General Counsel
South Carolina Department of Insurance
Post Office Box 100105
Columbia, South Carolina 29202
(803) 737-6132

Sworn to and subscribed before me
this 4th day of January, 2005.


Steven R. DuBois

Notary Public for the State of South Carolina-My Commission Expires: May 10, 2009